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AIRGRAM

PCL 33-1 ARG-PAR

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NEA	CU	INR
E	P	IO
L	FBO	AID
3		9
AGR	COM	FRB
INT	LAB	TAR
TR	XMB	AIR
ARMY	CIA	NAVY
OSD	USIA	NSA
	10	3
	8	3

27

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HANDLING INDICATOR

TO : DEPARTMENT OF STATE

1965 MAR 8 AM 8 02

INFO : BUENOS AIRES

ANALYSIS & DISTRIBUTION
BRANCH

FROM : Amembassy ASUNCION

DATE: March 6, 1965

SUBJECT : River Navigation Restrictions Continue to Pose Major Problem for
GOP.REF : Weeka No. 5, 1965; Embassy's A-360 of February 16, and A-213
of November 21, 1964. PCL 33-1 ARG-PAR.

On February 7, 1964, Foreign Minister Raúl SAPENA Pastor signed with Argentine Foreign Minister Miguel Angel ZAVALA Ortiz the "Act of Buenos Aires." The Act includes agreements to study several matters relating to commerce and navigation on the Paraguay-Paraná River system. However, its most important articles are those relating to Paraguay's access to the sea, and which provide that Paraguayan vessels may freely navigate the Paraguay and Paraná Rivers, conducted by their own pilots. (The purpose of this was to surplant Argentine regulations requiring Paraguayan vessels to carry Argentine pilots on certain shallow stretches within Argentine jurisdiction.) Argentina obtained a similar concession for its vessels in Paraguayan waters.

The principles stated in the Act of Buenos Aires were to be implemented by regulations drawn up by the two Under Secretaries, Pedro GODINOT DE VILAIRE and Ramón I. VASQUEZ, within a period of 240 days. After difficult negotiations agreement was supposedly reached during October 1964, and the GOP published its implementing regulations on November 17.

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Enclosure:

Memorandum for the files dated Feb. 26, 1965.

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FORM
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Clearances: POL:GF

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The Argentine regulations implementing the agreement were an unpleasant surprise for the Paraguayans. Issued on November 13, they provided that Paraguayan vessels not carrying Argentine pilots must carry on board an "inspector" during the time they are within Argentine jurisdiction. The Paraguayans protest that this regulation, which does not apply to Brazilian vessels, is discriminatory and inconsistent with the Act of Buenos Aires, particularly as it had not been agreed upon by the two Under Secretaries during their protracted negotiations. Foreign Minister Sapena Pastor publicly stated the GOP's position that the requirement for a "useless" inspector would provoke "disputes, delays, incidents, etc." and commented that, should Argentina not change its position, there were juridical and moral bodies that could resolve any problem.

With the failure of bi-lateral negotiations to reach an acceptable solution, the GOP has taken the new tack presaged by the Foreign Minister's statement. It was announced in Asuncion on February 23 that Paraguay had requested consideration of the over-all problem at the forthcoming Second Extraordinary Inter American Conference, soon to be held in Rio de Janeiro. The Paraguayan initiative was successful and the seventh agenda item for the conference ~~reportedly~~ deals with consideration of the convocation of a specialized conference to review the norms governing navigation on international rivers and lakes.

That negotiations on the river navigation problem have been long and difficult is revealed by a conversation which Ambassador Snow had with Foreign Minister Raúl SAPENA Pastor. ^(see enclosure) Undoubtedly adding to the Foreign Minister's sense of frustration on the matter has been the spate of critical comment which has appeared, not only in the opposition press, but also in the semi-official La Tarde and El País. (The editor of these papers, Dr. Emilio SAGUIER Aceval, upon occasion has been mentioned as a possible successor to Foreign Minister Sapena Pastor.) The National Press Circle (Círculo de la Prensa Nacional), of which Dr. Saguier is president, has undertaken an elaborate study of river navigation under international law, which it is forwarding to the OAS. A serialized version of the study is being published by Dr. Saguier's newspapers and will be forwarded to the Department as soon as it is completed.

For the Ambassador:


Dale M. Povenmire
Second Secretary of Embassy

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Enclosure, Pg. 1

A-369

Asunción

MEMORANDUM FOR THE FILES

February 26, 1965.

SUBJECT: Conversation with Foreign Minister: Topic Seven of Draft Agenda for Second Special Inter-American Conference.

— A R A

Upon our receipt of Deptel 207, I obtained an appointment for this morning with Foreign Minister Sapena Pastor. He was pleased to hear that the USG had agreed to vote in favor of the wording Paraguay desired for Topic Seven of the Draft Agenda for the forthcoming conference in Rio. He explained that the addition of the words "and commercial" was of marked importance to Paraguay because of his country's extended difficulties with Argentina over the use of the Paraguay-Paraná river system. He supposed that many people, even including ourselves, considered the Paraguayans to be unduly prejudiced against the Argentines. Therefore he proposed to tell me what had happened between the GOP and the GOA in recent months with regard to the river navigation question. I would then understand more clearly the reason for the Paraguayan position on Topic Seven as well as Paraguayan attitudes in general.

Some months ago, he said, after extended negotiations, he had headed a Paraguayan delegation to Buenos Aires for the purpose of finalizing and signing the so-called "Acta de Buenos Aires" regulating navigation on the Paraguay-Paraná. Accompanying him were Dr. Carlos Saldívar and other well-informed officials and technicians. The signing ceremony was to take place at 5:00 p.m. on the appointed day, to be followed by a reception he (Sapena Pastor) was giving at his Embassy to mark the occasion and offer hospitality to the principal Argentine officials. At 9:00 p.m. on the same evening the Argentines were offering a banquet in honor of the Paraguayan delegation, to which some 350 "notables" had been invited.

Prior to the signing, Foreign Minister Sapena had instructed his delegation to read with particular care every word of the documents being prepared for the actual signature, comparing them line by line with the negotiated texts. When they had done this they were to sign in pencil the documents he was expected to sign in ink, thereby certifying to him that they were in perfect order. He told me that although he had no unusual reason for suspecting the other government in this case, some subconscious feeling impelled him to take special precautions.

Not long before the 5:00 p.m. deadline, Dr. Saldívar came to him with the information that the Argentines had changed one key word. Whereas the negotiated text had spoken of "libre navegación hasta el mar", the documents for signature now read "hacia el mar." As I could readily perceive, the Minister said, the two words "hasta" and "hacia" looked almost alike and

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Enclosure 1, Pg. 2

A-369

Asunción

had the same number of letters. Anyone reading such a long document at all hastily might not notice the difference, but in meaning there was a whole world of difference in the instant case. "Hacia el mar" could mean just the portion of the river from Asunción to Villeta, for example, whereas the entire negotiation had concerned freedom of navigation all the way to the ocean itself.

He at once requested the Argentine Foreign Minister to confer with him alone, whereupon he confronted the latter with this discovery. The Argentine Minister appeared genuinely unaware of the textual change and agreed to hold up the signing ceremony until the question was resolved. The Paraguayans meanwhile had found that the change had been made on direct written orders from a naval captain in the Ministry of Marine. They even identified the name of the Argentine stenographer and the minor official to whom the orders were directed. It would thus appear that the senior Argentine Foreign Office staff were not aware of what had happened, according to Sapena Pastor.

The two Foreign Ministers met again by themselves and Sapena Pastor, after again expressing due indignation, made it clear that he would under no circumstances sign the documents until or unless the proper correction was made. By that time it was 7:00 p.m. and he hastened to the Paraguayan Embassy to act as host for the reception. Then there were more discussions and negotiations, causing the two delegations to arrive at the banquet an hour and a half or more after the appointed time. All of the other guests were thus kept waiting for an extended period. The speeches called for on such an occasion sounded more like funeral orations, according to Sapena Pastor.

They were not able to get away from the banquet until 3:00 a.m. The Argentine Minister and his wife accompanied Sapena Pastor and his wife back to their hotel, at which point the former asked Sapena Pastor if he could not possibly stay over one more day in order that the GOA might rectify the situation. Sapena Pastor replied that he could and would if he could be positively assured that there would be no more chicanery. The assurance was given, the matter resolved the following day, and the documents signed.

As if that were not enough, the Argentines then proceeded to try another trick. Groups of negotiators, headed by the Under Secretaries of the two Foreign Offices, had been commissioned to work out detailed regulations in implementation of the Acta de Buenos Aires. They had, after lengthy efforts achieved agreement on all points and had concurrently submitted the agreed results to their governments. The next requirement was that each of the two countries, pursuant to its constitutional procedures, make the regulations effective. Paraguay did exactly that by means of a decree embodying verbatim the negotiated text.

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Enclosure 1, Pg. 3

A- 369

Asunción

The Argentines, however, put out a decree which went beyond the agreed text with several additional provisions, one of which nullified a basic concept which had been under elaborate discussion for many weeks and finally agreed upon along the lines of the final Paraguayan position. Paraguay, the Minister explained, did not question the inherent right of the GOA to examine, from a police standpoint, any vessels passing through that stretch of the river wholly within Argentine territory. The GOP did, on the other hand, firmly object to the Argentine idea that every Paraguayan vessel in transit through this stretch of the river must at all times have an Argentine inspector on board. It was this requirement which the Argentines, after having agreed not to include it in the regulations, put back in when they published their decree, and this is the proximate cause of Paraguay's desire to air the question of river navigation at the OAS Conference. Sapena Pastor went on to tell me that should the GOA and the GOP resolve the difference in the meanwhile, Paraguay would not find as much need as before for an open debate at the Rio conference.

He then pulled out of his desk drawer a copy of a letter he had written to Zavala Ortiz and read me portions of it. He described it as the strongest letter he had ever addressed to another Foreign Minister. This type of communication, he said, could only be prepared if and when you were utterly sure of your facts and when they were of sufficient import to warrant so strong a tone.

He compared the Argentine way of doing business with the Brazilian. When you were dealing with the Brazilians, he said, you had to expect that they would use the last ounce of preparation, shrewdness, tact and available information to advance their interests. The other side must do the same. The point was, however, that the Brazilians would not stoop to such an "estafa" as the subtle changing of a word in the agreement or to the publishing of a decree such as that he had described. The word change in particular and the devious manner or attempting to put it across must have required considerable thought and scheming. It represented just about what the Paraguayans had long since learned to expect in dealings with the Argentines.

William P. Snow

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